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William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

Re: *CC Docket No. 92-77, Billed Party Preference*

On behalf of Pacific Bell, please find attached is written ex parte presentation in response to arguments made by the California Payphone Association in their Reply Comments filed on September 13, 1994, in the above-referenced docket. Please associate this material with this proceeding.

We are submitting two copies of this notice in accordance with Section 1.1206(a)(1) of the Commission's Rules.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

Jo Ann Goddard

Attachment

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Nancy C. Woolf
Attorney

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, Room 222
Washington, D.C. 20554

Re: Billed Party Preference, CC Docket No. 92-77

Dear Mr. Caton:

This letter serves to respond to the arguments made by the California Payphone Association ("CPA") in their Reply Comments filed on September 13, 1994 in the above-referenced docket. Among other things, the CPA claims that the California COPT Enforcement Program is an appropriate model for the interstate jurisdiction in order to prevent rate gouging by operator service providers. We need to respond to some of the inaccuracies and misleading statements made in that filing.

The process has some serious drawbacks:

- for those calls sent to us from

  (a) a source that uses Pacific Bell to bill these calls on behalf of the source (i.e., Pacific's Bill and Collection service) and

  (b) where the source sends us individual calls to bill and collect as opposed to "invoice ready" calls where the calls are already formatted and grouped by customer account.

Sources may elect to have Pacific do their billing and collection or they may elect to bill and collect directly themselves or through the use of a third-party billing instrument such as a commercial credit card or an IEC Calling Card. Pacific only sees the calls (and uses the scan and reject technology) if the source chooses to use Pacific for billing and collection. If the source uses a third party or bills these calls themselves Pacific never sees the messages. At a rough estimate Pacific sees approximately 85-95% of payphone originated intraLATA and interLATA/interstate carrier or OSP handled calls.

- Our software is written to only apply to intrastate calls originating from COPT phones. It doesn't apply to aggregator locations, and it doesn't apply to any other alternately billed call. Therefore, it could not easily be applied to any other type of call.

- OSPs, IECs and especially third party billers have been known to leave the Bellcore standard EMR (call record) payphone indicator off of a particular call record thus causing the call record to bypass the call rating system.

- OSPs, IECs and third party billers have been known to always encode calls as manually handled (higher rate) even though the call may actually have been handled mechanically (lower rate).

Some of these drawbacks could be addressed by:

- Establishing some method of recompense for the LECs that would perform this public policy function. One recommendation is to bill IECs, OSPs and third party billers on a per rejected (overcharged) call basis.

- Recognizing that the LEC sees most but not all IEC, OSP or third party biller call traffic via the bill and collect process. This process would not address calls billed directly to the subscriber nor such billing mechanisms as commercial credit cards, IEC calling cards or inclusive hotel/motel bills.

- Requiring IECs, OSPs and third party billers to follow EMR format standards established by the FCC, preferably in accordance with Bellcore standards, as a way to prevent avoidance of the rate cap. This would require some audit mechanism.

- Establishing a benchmark rate and then updating only on a yearly basis.

From a competitive viewpoint, it also quite awkward to have a competitor as the enforcer. We compete with OSPs for business. Yet, we also have to enforce the regulations on rate levels. This sets up a legally fragile system, which should not be copied and expanded to the interstate level.

While rate caps may be an appropriate method of policing OSP rates, the Commission should undertake to be the regulator and enforcer of those rates. Don't saddle a competitor with those duties. And, as we have stated earlier, while rate caps solve the rate issue, they don't address other market imbalances that BPP would solve. It is therefore a far less-than-perfect solution.

Sincerely,

Nancy C Woolf

Nancy C. Woolf
Attorney